

Staff Summary

This ordinance amends sections of the Lake County Code in order to clarify that code enforcement officers have the option to issue citations for violations of the Code. It also provides 30 days for alleged violators to pay or contest the citation.

ORDINANCE 2007 - _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LAKE COUNTY, FLORIDA, PROVIDING CLARIFICATION REGARDING THE OPTION FOR CODE ENFORCEMENT OFFICERS TO ISSUE CITATIONS FOR CODE VIOLATIONS; AMENDING SECTION 1-6, LAKE COUNTY CODE, ENTITLED GENERAL PENALTY; AMENDING SECTION 8-4, LAKE COUNTY CODE, ENTITLED ENFORCEMENT PROCEDURE; AMENDING SECTION 8-11, LAKE COUNTY CODE, ENTITLED ALTERNATE ENFORCEMENT PROCEDURE CITATIONS; AMENDING SECTION 8-13, LAKE COUNTY CODE, ENTITLED PENALTIES, TO PROVIDE THIRTY DAYS TO PAY OR CONTEST A CITATION; AMENDING SECTION 8-14, LAKE COUNTY CODE, ENTITLED VIOLATION PROCEDURE, TO PROVIDE THIRTY DAYS TO AMEND OR CONTEST THE CITATION; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on February 13, 2001, the Board of County Commissioners adopted Resolution 2001-27, initiating the alternate code enforcement procedures outlined in Sections 8-11 through 8-14 of the Lake County Code and providing a citation form; and

WHEREAS, the alternate code enforcement provisions in Sections 8-11 through 8-14 of the Lake County Code permit code enforcement officers to issue citations for violations of the Code; and

WHEREAS, additional code changes will clarify that Code Enforcement has the option to issue citations for code violations; and

WHEREAS, the Board desires to adopt these changes to provide clarification for enforcement of the Lake County Code using the alternate code enforcement provisions.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Lake County, Florida that:

Section 1. Recitals. The foregoing recitals are true and correct and hereby incorporated herein by reference.

Section 2. Amendment. Section 1-6, Lake County Code, entitled General Penalty, is hereby amended to read as follows:

1 **Section 1-6. General penalty.**

2
3 Whenever in this Code any act is prohibited, or is made or declared to be unlawful, or an
4 offense; or whenever in such Code the doing of any act is required, or the failure to do
5 any act is declared to be unlawful, where no specific penalty is provided therefore, the
6 violation of any such provisions of this Code shall be punished by a fine not to exceed
7 five hundred dollars (\$500.00) or by imprisonment in the county jail not to exceed sixty
8 (60) days or by both such fine and imprisonment or as provided in F.S. § 125.69. Each
9 act of violation and each day any violation shall occur shall constitute a separate offense,
10 unless otherwise provided. Nothing contained in this section shall prohibit the County
11 from enforcing this Code by any other means.

12
13 **Section 3. Amendment.** Section 8-4, Lake County Code, entitled
14 Enforcement Procedure, is hereby amended to read as follows:
15

16 **Sec. 8-4. Enforcement procedure.**

- 17
18 (a) The code enforcement manager or designee shall have the duty of enforcing the
19 various codes pursuant to this chapter. The code enforcement manager or
20 designee shall utilize the procedures of this section or the alternative enforcement
21 procedure outlined in Sections 8-11 through 8-14. The special master shall not
22 have the power to initiate enforcement proceedings pursuant to this chapter. The
23 code enforcement manager and designee shall accept anonymous code violation
24 complaints.
25
26 (b) If a violation of a code provision is found, the code enforcement manager or
27 designee shall notify the alleged violator of the violation and give the alleged
28 violator a reasonable time, in light of the nature of the violation, to correct the
29 violation. Should the violation continue beyond the time specified for correction,
30 the code enforcement manager or designee shall schedule a hearing in front of the
31 special master, and provide written notice to the alleged violator of a scheduled
32 hearing in the manner prescribed in section 8-5. If the violation is not corrected by
33 the time specified for correction by the code enforcement manager or designee,
34 the case may be presented to the special master even if the violation has been
35 corrected prior to the hearing, and the notice shall so state.
36
37 (c) If a repeat violation is found, the code enforcement manager or designee shall
38 notify the alleged violator, but shall not be required to give the alleged violator a
39 reasonable time to correct the violation. The code enforcement manager or
40 designee, upon notifying the alleged violator of a repeat violation, shall schedule a
41 hearing, and shall provide written notice to the alleged violator of a scheduled
42 hearing in the manner prescribed in section 8-5. The case may be presented to the
43 special master even if the repeat violation has been corrected prior to the hearing,
44 and the notice shall so state. If the repeat violation has been corrected, the special
45 master shall retain the right to hold a hearing to determine costs and impose the
46 payment of reasonable enforcement fees upon the repeat violator. For purposes of

- 1 this chapter, a repeat violation means a violation of a provision of a code or
2 ordinance by a person who has been previously found to have violated or who has
3 admitted violating the same provision within five (5) years prior to the violation,
4 notwithstanding the violations occur at different locations.
- 5 (d) Notwithstanding the provisions of paragraphs (a), (b), and (c), if the code
6 enforcement manager or designee has reason to believe a violation presents a
7 serious threat to the public health, safety and welfare, or if the violation is
8 irreparable or irreversible in nature, the code enforcement manager or designee
9 shall make a reasonable effort to notify the alleged violator and may immediately
10 schedule a hearing in front of the special master.

11
12 **Section 4. Amendment.** Section 8-11, Lake County Code, entitled
13 Alternate Enforcement Procedure Citations, is hereby amended to read as follows:
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15 **Sec. 8-11. Alternate enforcement procedure citations.**

16
17 ~~Upon authorization by resolution of the board of county commissioners,~~ The code
18 enforcement manager or designee shall have the enforcement powers set out in sections
19 8-11 through 8-14 herein, inclusive.
20

21 **Section 5. Amendment.** Section 8-13, Lake County Code, entitled
22 Penalties, is hereby amended to read as follows:
23

24 **Sec. 8-13. Penalties.**

- 25
- 26 (a) A citation for initial violation of a code provision or ordinance which is not
27 contested shall carry a reduced civil penalty of one hundred fifty dollars
28 (\$150.00), provided that such reduced civil penalty shall be paid to the clerk of
29 the county court within ~~ten (10)~~ thirty (30) days of the alleged violator's receipt of
30 the citation.
- 31
- 32 (b) A citation for a repeat violation which is a second violation of a code provision or
33 ordinance, and which is not contested, shall carry a reduced civil penalty of three
34 hundred dollars (\$300.00), provided that such reduced civil penalty shall be paid
35 to the clerk of the county court within ~~ten (10)~~ thirty (30) days of the alleged
36 violator's receipt of the citation.
- 37
- 38 (c) A citation for a repeat violation of a code provision or ordinance, other than a
39 second violation, and which is not contested, shall carry a civil penalty of four
40 hundred fifty dollars (\$450.00), provided that such reduced civil penalty shall be
41 paid to the clerk of the county court within ~~ten (10)~~ thirty (30) days of the alleged
42 violator's receipt of the citation.
- 43
- 44 (d) An alleged violator may contest the citation by requesting a hearing date from the
45 clerk of the county court within ~~ten (10)~~ thirty (30) days of the alleged violator's
46 receipt of the citation.

- 1
2 (e) If a citation for a violation of a code or ordinance is contested, the civil penalty
3 imposed by the county court shall not exceed five hundred dollars (\$500.00).
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5 **Section 6. Amendment.** Section 8-14, Lake County Code, entitled
6 Violations Procedure, is hereby amended to read as follows:
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8 **Sec. 8-14. Violations procedure.**
9

- 10 (a) The code enforcement manager or designee shall be authorized to issue a citation
11 to a person when, based upon personal investigation, the code enforcement
12 manager or designee has reasonable cause to believe that the person has
13 committed a civil infraction in violation of a Lake County Code provision or an
14 ordinance. Prior to issuing a citation, the code enforcement manager or designee
15 shall provide notice to the person that the person has committed a violation of the
16 applicable code provision or ordinance, and shall establish a reasonable period of
17 time of thirty (30) days or less within which the person shall correct the violation.
18 If, upon personal investigation, the code enforcement manager or designee finds
19 that the person has not corrected the violation within the designated time period,
20 he or she may issue a citation to the person who has committed the violation. The
21 code enforcement manager or designee shall not be required to provide the person
22 with a reasonable period of time to correct the violation prior to issuing the
23 citation, and may immediately issue a citation, if the code enforcement manager
24 or designee has reason to believe that the violation presents a serious threat to the
25 public health, safety, or welfare, or if the violation is irreparable or irreversible.
26
27 (b) The code enforcement manager or designee shall issue a citation in a form
28 prescribed by resolution of the board of county commissioners, and meeting the
29 requirements of section 162.21(3)(c), Florida Statutes.
30
31 (c) Any person who willfully refuses to sign and accept a citation issued by the code
32 enforcement manager or designee shall be guilty of a misdemeanor of the second
33 degree, punishable as provided for in F.S. § 775.082 or 775.083.
34
35 (d) After issuing a citation to an alleged violator, the code enforcement manager or
36 designee shall deposit the original citation and one (1) copy of the citation with
37 the clerk of the county court in Lake County.
38
39 (e) An alleged violator shall have ~~ten (10)~~ thirty (30) days from the date of receipt of
40 the citation to pay the reduced civil penalty indicated on the citation, either by
41 mail or in person, or contest the citation by requesting a hearing date in the county
42 court. An alleged violator electing to contest the citation and choosing to appear
43 in county court shall be deemed to have waived the right to pay the reduced civil
44 penalty provided for in section 8-13.
45

(f) The county court, after a hearing, shall determine whether the alleged violator has committed an infraction. If the commission of an infraction by the alleged violator has been proven by the greater weight of the evidence, the county court may impose a civil penalty not to exceed five hundred dollars (\$500.00).

(g) An alleged violator who fails, within ~~ten (10)~~ thirty (30) days from the date of receipt of the citation, to pay the reduced civil penalty appearing on the citation, or to request a hearing to contest the citation, or who requests a hearing but does not appear, shall be deemed to have waived the right to contest the citation, and the county court may enter judgment against the alleged violator for an amount up to the maximum civil penalty of five hundred dollars (\$500.00).

Section 7. Inclusion in Code. It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Lake County Code and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

Section 8. Severability. If any section, sentence, clause, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portion of this Ordinance.

Section 9. Effective Date. This ordinance shall become effective as provided by law.

Enacted this _____ day of _____, 2007.

Filed with the Secretary of State _____, 2007.

Effective _____, 2007.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF LAKE COUNTY, FLORIDA

James C. Watkins, Clerk of the
Board of County Commissioners
of Lake County, Florida

Welton G. Cadwell, Chairman

This _____ day of _____, 2007.

Approved as to form and legality:

Sanford A. Minkoff
County Attorney